



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

APPLICATION NO.	FILING DATE	FIRST NAME INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,194	05/24/2000	Marcelo Doncelis	026-1	5413

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EXAMINER

SCHMIDT, MARY M

ARTICLE PAPER NUMBER

DATE MAILED 04/30/2002

Please find below and or attached an Office communication concerning this application or proceeding.

Examiner

Art Unit

May 5, 1964

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE EARLIER THAN THE MAILING DATE OF THIS COMMUNICATION

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, it shall be processed in accordance with the practice under *Final Action on the Merits*.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application  
4a) Of the above claim(s), \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are ☐ accepted and ☐ not accepted by the Examiner.
- Applicant may not request that any objection to the drawing(s) be withdrawn.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is a ☐ approved drawing and ☐ not approved.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) and:
- a. ☐ All, b. ☐ Some, c. ☐ None of the following:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received and the following:
3. ☐ Copies of the certified copies of the priority documents have been made available to the public upon application from the International Bureau. PCT Rule 17.2(a).
- \* See the attached detailed Office action for a list of the certified copies that have been received.
14. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) and:
- a. ☐ The translation of the foreign language provisional application has been received.
15. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(f) and:

## Attachment(s)

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### DETAILED ACTION

1. The reply filed on February 11, 2002, is not fully responsive to the prior Office action because of the following omission(s) or matter(s): Applicant did not elect either a plant species or a gene species. In the restriction requirement mailed 08/13/01, an election of (1) a plant species and (2) and an ASK gene species was required. In regards to part (2), election of an ASK gene, Applicant replied that the requirement for these species elections was not understood since "there are not different species of genes. There is only the ASK-gene of Group II." In response, dependent claim 6 specifies different species of the AKS group II genes and the specification teaches on page 2 that ASK genes are a multigene family that comprise various members such as alpha, gamma, dzeta, etha and iota. An election of *one* of these species is required since a consideration of the effects (the claimed functions) of modulating expression of any of these species would require an undue burden to search and examine as argued in the previous restriction requirement. In regards to part (1), election of a plant species, Applicant argues that "all plants that have storage organs can be modified. To the extent that an election on this is appropriate the election would be to dicots." In response, claim 14 lists different species of plants in which to express the ASK genes. Since the ASK genes are native to Arabidopsis and the specification does not teach their homologs from the other claimed species, significantly different considerations for search and examination are required for consideration of the claimed functions, modification of storage organs using an ASK gene in the different claimed plant species. For this reason, an election of *one* plant species is required for examination on the

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merits. Please note that an election of one species of plant and one species of ASK gene is not permanent as in the case of a restriction to said species. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Mary M. Schmidt*, whose telephone number is (703) 308-4471.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *John LeGuyader*, may be reached at (703) 308-0447.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Analyst, *Katrina Turner*, whose telephone number is (703) 305-3413.

M. M. Schmidt  
April 23, 2002

JOHN LE GUYADER  
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